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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

W.P. No.4140 of 1992

Petitioner M/s Laxmi Ispat Industries Industrial Area Bhanpuri, Raipur through the Proprietor Ram Sagar Bhanpuri, Raipur, M.P.

Versus

Respondents

1. Sales Tax Officer, Raipur Circle, Raipur
2. Divisional Dy. Commissioner of Sales Tax, Raipur, M.P.
3. Asstt. Commissioner of Sales Tax Raipur, M.P.

Present : Shri Manindra Shrivastava, Sr. Counsel with Amrito Das for the petitioner.
Shri Sumesh Bajaj, G.A. for the respondent/State.

ORAL ORDER
(Passed on 16th April, 2007)

The petitioner is a dealer registered under the provisions of M.P. General Sales Tax Act (for short 'Act'). Petitioner claims that he is engaged in the manufacture of various steel items from the iron steel scrap.

2. Petitioner had approached the assessing authority for grant of Recognition Certificate as envisaged under Section 16 (C) of the Act. The request of the petitioner was rejected by the assessing authority by an order dated 12.09.1990 (Annexure P-4). Aggrieved by the said order the petitioner was before the Revisional Authority, who by its order dated 08.01.1992 (Annexure P-5) confirmed the order passed by the assessing authority. Aggrieved by the aforesaid two

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orders, the petitioner is before this Court in this petition filed under Article 226/227 of the Constitution of India.

3. At the time of hearing of the petition, the counsel for the petitioner has produced before me the judgment of the Hon'ble Supreme Court in the matters of **Ashirwad Ispat Udyog and others etc. Vs. State Level Committee and others, AIR 1999 Supreme Court 111.** In the said decision Hon'ble the Supreme Court has observed as under:

> "In the special definition given in S.2(j) of the Act 'manufacture' has been defined as including a process or manner of producing, collecting, extracting, preparing or making any goods. There can be no doubt whatsoever that "collecting" goods does not result in the production of a new article. There is, therefore, inherent evidence in the definition itself that the narrow meaning of the word "manufacture" was not intended to be applied in the said Act. Again, the definition speaks of "the process of lopping the branches (of trees), cutting the trunks". The lopping of branches and the cutting of trunks of trees also, self evidently, does not produce a new article. The clear words of the definition, therefore, must be given due weight and cannot be overlooked merely because in other contexts the word to the process of manufacture of new articles. The treating of iron and steel scrap of considerable bulk by cutting it down by mechanical processes into pieces that may be conveniently utilized in rolling mills and foundries therefore falls within the wide definition of "manufacture" under S.2(j). M.P. Nos.1333, 1430, 2200 of 1991".

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4. In view of the declaration of law, in my opinion the orders passed by the assessing authority and the Revisional Authority, require to be set aside and the matter requires to be remanded back to the assessing authority to re-do the matter, keeping in view the law declared by Hon'ble Supreme Court in the case of **Ashirwad Ispat Udyog and others etc. Vs. State Level Committee and others.** Accordingly, the following:

ORDER

i. The writ petition is disposed of.

ii. The impugned order dated 12.09.1990 (Annexure P-4) passed by the assessing authority and order dated 08.01.1992 (Annexure P-5) passed the Revisional Authority, are set aside.

iii. The matter is remanded back to the assessing authority to re-do the matter in accordance with law and keeping in view the law declared by Hon'ble Supreme Court in the case of **Ashirwad Ispat Udyog and others etc. Vs. State Level Committee and others.**

v. Ordered accordingly.

Sd/-
Chief Justice